

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII

901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of)	
)	
Helena Chemical Company)	Docket Nos.
Guthrie Center, Iowa)	CERCLA -07-2003-0099
)	EPCRA-07-2003-0099
)	
Respondent.)	

CONSENT AGREEMENT AND FINAL ORDER

The First Amended Complaint for the assessment of a civil penalty was filed on or about May 29, 2003, pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9609, and Section 325 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11045, when the United States Environmental Protection Agency (Complainant or EPA) issued to Helena Chemical Company, Guthrie Center, Iowa, (Respondent) a First Amended Complaint and Notice of Opportunity for Hearing.

The First Amended Complaint charged Respondent with violations of EPCRA Section 304, 42 U.S.C. § 11004, and the regulations promulgated pursuant to Section 328 of EPCRA, 42 U.S.C. § 11048, and codified at 40 C.F.R. Part 355; and Section 103 of CERCLA, 42 U.S.C. § 9603, and the regulations promulgated pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602, and codified at 40 C.F.R. Part 302.

The First Amended Complaint proposed a penalty of Forty-one Thousand Two Hundred Fifty Dollars (\$41,250) for these violations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in the First Amend Complaint. Respondent neither admits nor denies the factual allegations set forth in the First Amended Complaint.

2. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the First Amended Complaint.

3. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, Respondent's Guthrie Center, Iowa facility is presently in compliance with all requirements of Section 103 of CERCLA, 42 U.S.C. § 9603, and all implementing regulations, 40 C.F.R. Part 302; and Section 304 of EPCRA, 42 U.S.C. § 11004, and all implementing regulations, 40 C.F.R. Part 355.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.

6. Respondent understands that the failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.

7. Although not required by CERCLA, EPCRA or any other federal, state or local law, in settlement of this matter, Respondent agrees to undertake the following environmentally

beneficial projects that will benefit the community where Respondent's facility is located and assist the community in emergency response. Respondent agrees to:

a. Purchase six (6) self-contained breathing apparatuses (SCBA) for the Guthrie Center, Iowa volunteer fire department; and,

b. Purchase one new foam unit for the Guthrie Center, Iowa volunteer fire department.

8. Respondent agrees to pay at least \$17,000 by October 1, 2003, to purchase the equipment listed in paragraph 7 above. Respondent agrees to submit copies of invoices or other documentation to EPA to substantiate these expenditures. Respondent will also provide documentation to EPA showing receipt by the fire department of the equipment, at which time Respondent's obligations under paragraph 7 shall be satisfied. In the event that Respondent fails to expend \$17,000 by October 1, 2003 to implement these projects, Respondent agrees to pay a stipulated penalty EPA. Respondent shall be liable for a stipulated penalty of two dollars (\$2) for every one dollar (\$1) under \$17,000 that Respondent fails to expend to implement this project.

FINAL ORDER

Pursuant to the provisions of CERCLA, 42 U.S.C. § 9601, and EPCRA, 42 U.S.C. 11001, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Twelve Thousand Dollars (\$12,000), within thirty days of entry of this Final Order. Payment shall be by two cashier's or certified checks, each in the amount of Six Thousand Dollars. The first check should be made payable to the "United States Treasury" and remitted to:

EPA-Region VII
Attn: Regional Hearing Clerk
c/o Mellon Bank
Post Office Box 360748M
Pittsburgh, Pennsylvania 15251.

The second check should be made payable to "EPA Hazardous Substance Superfund" and remitted to:

EPA - Region 7
Attn.: Superfund Accounting
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

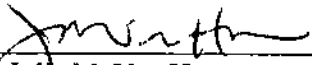
2. A copy of each check should be sent to:

Julie M. Van Horn
EPA-Region VII
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

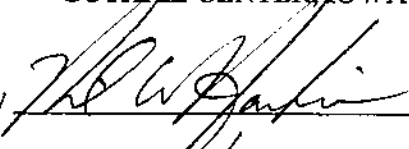
4. Respondent shall implement and complete the environmentally beneficial projects set forth in Paragraph 7 of the Consent Agreement. In the event that Respondent does not complete the environmentally beneficial projects set forth in Paragraph 7, Respondent shall pay stipulated penalties as set forth in Paragraph 8 of the Consent Agreement. Such stipulated penalties shall be immediately due and payable upon written notice to Respondent by EPA.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
Julie M. Van Horn
Senior Assistant Regional Counsel

Date 14 Aug 2003

RESPONDENT:
HELENA CHEMICAL COMPANY
GUTHRIE CENTER, IOWA

By 
Title Asst. Sec.

Date 8/12/03

IT IS SO ORDERED. This Final Order shall become effective
immediately.


Robert Patrick
Regional Judicial Officer

Date August 15, 2003

IN THE MATTER OF Helena Chemical Company, Respondent
Docket Nos. EPCRA-07-2003-0099 & CERCLA-07-2003-0099

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Julie Van Horn
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Kim K. Burke
Taft, Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202-3957

Copy by First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 8/15/03

A handwritten signature in cursive script, reading "Kathy Robinson", written over a horizontal line.

Kathy Robinson
Regional Hearing Clerk